S.B. CIVIL WRIT PETITION NO.6843/2006

Date of order : 1.6.2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri N.A. Naqvi for the petitioner.
Shri R.B. Mathur for the respondents.

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Heard learned counsel for the parties.

The petitioner has challenged the order dated 22.8.2006 by which the Excise Commissioner, Rajasthan, Udaipur while reviewing his earlier order dated 11.08.2006 reversed the order directing release of the vehicle of the petitioner on *supardginama* of Rs.2 lacs. The grievance of the petitioner is that the Commissioner having passed the order had no authority to thereafter review it inasmuch as while reviewing the order no opportunity was provided to the petitioner. The impugned order is therefore violative of Article 14 of the Constitution of India.

Learned counsel for the

respondents opposed the writ petition and submitted that the petitioner is having remedy of appeal under Section 19A of the Rajasthan Excise Act before the Board of Revenue.

In the face of two arguments raised by the petitioner, namely, (i) no opportunity of hearing was provided to him while passing the impugned order dated 22.8.2006 and; (ii) the Commissioner had no power to review his earlier order, instead of issuing direction requiring him to approach the Board of Revenue, it would be in the fitness of things that the matter is remanded back to the Excise Commissioner to the decide the same on merits as well as on the question of incompetence to review the earlier order.

The writ petition is accordingly allowed and the order impugned dated 22.8.2006 is set aside and the matter is remanded back to the Excise Commissioner before whom the petitioner shall appear

on 11.6.2006 along with the certified copy of this judgment. It is further directed that the fresh order in the matter shall be passed within a month.

(MOHAMMAD RAFIQ), J.

Skant/-